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AUG 18 2006

Patent
Attorney Docket No. 64118.000192
Customer No. 21967

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
TEITELBAUM *et al.*) Group Art Unit: Unassigned
Serial No.: 10/534,055) Examiner: Unassigned
Filed: May 6, 2005) Confirmation No. 2702
Title: TRANSPEDICULAR INTERVERTEBRAL)
DISK ACCESS METHODS AND DEVICES)

MAIL STOP PETITION
Commissioner for Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO REVIVE UNINTENTIONAL ABANDONMENT

Under the authority of 37 C.F.R. §1.137(b), Applicants respectfully petition the U.S. Patent and Trademark Office (PTO) to revive improper abandonment of the above-captioned application due to PTO's error.

Applicants timely responded to the Decision on Petition Under 37 C.F.R. §1.47(a) received by Hunton and Williams LLC, on May 10, 2006 (no mailing date was on correspondence) by filing a Renewed Petition Under 37 C.F.R. §1.47(a) on June 6, 2006, via electronic filing. Copies of the complete filing, including the Acknowledgement of Receipt, are enclosed for your convenience.

Applicants believe that no additional fees are due for filing this petition. In the event any additional fees are required, the Commissioner is authorized to charge all required fees, under 37



UNITED STATES PATENT AND TRADEMARK OFFICE

PAD;TMM;RAK

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

21967

HUNTON & WILLIAMS LLP
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

64118.192
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MAY 10 2006

In re Application of
TEITELBAUM et al
U.S. Application No.: 10/534,055
PCT No.: PCT/US03/09285
Int. Filing Date: 25 March 2003
Priority Date: None
Docket No.: 64118.000192
For: TRANSPEDICULAR
INTERVERTEBRAL DISK ACCESS
METHODS AND DEVICES

Hunton & Williams LLP
7047

892
5-12-06
DOCKETED

DECISION ON
PETITION
UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a)" filed 23 November 2005.

BACKGROUND

On 25 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions available.

On 23 November 2005, applicants submitted a response which was accompanied by, *inter alia*, the subject petition and petition fee of \$130.00; the surcharge fee of \$130.00; a two-month extension fee of \$450.00; a declaration executed by six of the seven named inventors; a declaration of Yison Song; and attachments A - C.

DISCUSSION

Petitioners allege that "nonsigning inventor Frank Nguyen is unavailable" and filed a petition under 37 CFR 1.47(a) as a response to the Form PCT/DO/EO/905.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by

10/534,055

Page 2

the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to \$200.00 on 08 December 2004. Petitioners submitted a \$130.00 petition fee. The \$70.00 difference will be charged to Deposit Account No. 50-0206 as authorized satisfying item (1).

Regarding item (2), the 37 CFR 1.47(a) applicants submitted evidence filed previously in an earlier U.S. application (10/999,216) showing that a diligent effort was made to locate Mr. Nguyen. A review of this evidence shows that a letter dated 04 April 2005 was sent to the last known address of Mr. Nguyen in Superior, Colorado. This "package was undeliverable and marked Return to Sender." See Atch. A.

However, petitioners also submitted a copy of a letter dated 25 October 2005 in the subject application which was signed as received by Frank Nguyen at the Colorado address on 01 November 2005. See Atch. C.

Consequently, petitioners' assertion that Mr. Nguyen cannot be located is in question. Petitioners must determine if the nonsigning inventor still lives in Superior, Colorado. Petitioners may then claim that Mr. Nguyen is refusing to cooperate, but a complete copy of the subject application must be sent to the nonsigning inventor to make this assertion. See § 409.03(d) MPEP.

For these reasons, item (2) of 37 CFR 1.47(a) is not satisfied.

With regard to item (3), the 37 CFR 1.47(a) applicants indicated two possible addresses for the nonsigning inventor. This item should be updated if it is determined that the nonsigning inventor still resides in Colorado.

Concerning item (4), petitioners included a declaration signed by six of the seven joint inventors listed on the international publication. The nonsigning co-inventor's name, residence, post office address and citizenship are typed on the declaration. Nevertheless, the declaration does not meet the requirements of 37 CFR 1.497(a) and (b).

It appears that petitioner submitted one complete declaration for the first Inventor and copies of the signing pages for the five other named inventors. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration for five of the named inventors, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants

10/534,055

Page 3

must submit the complete declaration signed by each co-inventor. For this reason, item (4) of 37 CFR 1.47(a) is not satisfied.

Thus, all of the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

The petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Record of Telephone Conversation

From: Selina Moore
To: 64118.000192
Date: June 7, 2006
Re: Receipt of Renewed Petition filed via facsimile on June 6, 2006

At approximately 9:15 a.m., I telephoned Mr. James Thompson, Attorney Advisor at the Office of PCT Legal Administration, as an assistant to Bob King, counsel for the Petitioners in this matter, to verify that the petition was transmitted to the proper fax number. Mr. Thompson verified that it was, and also noted that the Office of PCT Legal Administration does not have the capability to send return facsimile acknowledgements. He said the document should be with a clerk in his office, and that he expects to receive it sometime today.

I thanked Mr. Thompson for his assistance and asked that he contact us if anything else would be needed with regard to the granting of this petition.



600 Peachtree Street, NW
Suite 4100
Atlanta, GA 30309
TEL 404-582-4000
FAX 404-582-4000

TO	NAME FIRM	U.S. Patent and Trademark Office MAIL STOP PCT Office of PCT Legal Administration 571-273-0459
PAK NO.: PHONE NO.:		
PAGES (INCLUDING COVER):		37
ORIGINAL TO FOLLOW IN MAIL		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
FROM	NAME:	Robert A. King, Esq.
DIRECT DIAL: 404-582-4136		
MESSAGE	In re Application Of: TEITELBAUM et al. Application No.: 10/594,088 Filed: May 6, 2003 Title: TRANSPEDIUCULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES The following documents are transmitted via facsimile in connection with the above-referenced patent application.	
1. Renewed Petition Under 37 C.P.R. 1.47(e) (4 pgs.) 2. Declaration of Robert A. King, Esq., Including Attachments 1-2 (12 pgs.) 3. Copies of executed Declarations (20 pgs.)		

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 404-582-4027.

OPERATOR

DATE:	June 8, 2006
CLIENT/MATTER NO.:	64118-000192
This communication is confidential and is intended to be privileged between the attorney-client privilege and the work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please notify us and advise that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.	

*** SEND SUCCESSFUL ***

job:264

Pages sent : 37
 End time : JUN-06 16:37
 Start time : JUN-06 16:28
 Doc. pages : 37
 To : #164118000192915712730459
 Date : JUN-06 16:28
 Job : 264

Name : HUNTON & WILLIAMS
 Fax number: 4048884190
 Time : JUN-06-06 16:37

CONFIRMATION REPORT - MEMORY SEND

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AUG 18 2006

**HUNTON &
WILLIAMS**

FAX

600 PEACHTREE STREET, N.E.
SUITE 4100
ATLANTA, GA 30308

TEL 404 • 888 • 4000
FAX 404 • 602 • 9050

TO	NAME	
	FIRM	U.S. Patent and Trademark Office
		MAIL STOP PCT
		Office of PCT Legal Administration
	FAX NO.:	571-273-0459
	PHONE NO.:	
	PAGES (INCLUDING COVER):	37
	ORIGINAL TO FOLLOW IN MAIL:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
FROM	NAME:	Robert A. King, Esq.
	DIRECT DIAL:	404-888-4136
MESSAGE	In re Application Of: TEITELBAUM et al.	Examiner: Unassigned
	Application No.: 10/534,055	Art Unit: Unassigned
	Filed: May 6, 2005	Docket No.: 64118.000192
	Title: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES	

The following documents are transmitted via facsimile in connection with the above-referenced patent application:

1. Renewed Petition Under 37 C.F.R. 1.47(a) (4 pgs.)
2. Declaration of Robert A. King, Esq., including Attachments 1-2 (12 pgs.)
3. Copies of executed Declarations (20 pgs.)

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 404 • 888 • 4027.

OPERATOR

DATE: June 6, 2006
CLIENT/MATTER NO.: 64118.000192

This communication is confidential and is intended to be privileged pursuant to the attorney-client privilege and the work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

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Patent
Attorney Docket No. 64118.000192
Customer No. 21967THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
TEITELBAUM et al.) Group Art Unit: Unassigned
Serial No.: 10/534,055) Examiner: Unassigned
Filed: May 6, 2005) Confirmation No. 2702
Title: TRANSPEDICULAR INTERVERTEBRAL)
DISK ACCESS METHODS AND DEVICES)

RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)

MAIL STOP PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a) and (d), Applicants hereby petition the Commissioner to accept its U.S. Application Serial No. 10/534,055 absent an Oath or Declaration signed by all named inventors. Joint inventors George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson have signed Declarations.

Inventor Frank Nguyen is a nonsigning inventor, notwithstanding repeated and diligent efforts to obtain his signature by the entity to which an assignment of the application is owed, Medtronic Sofamor Danek, and by whom the inventor was employed at the time of invention. Medtronic Sofamor Danek owns SDGI Holdings, Inc. which is the holding company to which

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Application Serial No. 10/534,055
Customer No. 21967

Medtronic Sofamor Danek's intellectual property is assigned. Mr. Nguyen was employed by Vertelink Corporation, which was acquired by Medtronic Sofamor Danek.

In support of this petition, Applicants have enclosed:

- (1) Declarations bearing the executed signatures of George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson; and
- (2) A Declaration by registered patent attorney, Robert A. King, presenting facts relating to unsuccessful attempts to locate Mr. Nguyen and obtain his signature on a Declaration.

(A) Declarations by the Joint Inventors

Inventors George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson have signed Declarations on their own behalf. MPEP 409.03(a)(A)(1). Because these inventors duly executed Declarations in support of this application, the Declaration is filed in the names of those inventors on behalf of the remaining nonsigning inventor and on behalf of the entity to whom all inventors owe a duty of assignment, Medtronic Sofamor Danek. See MPEP 409.03(a)(A)(2) and 37 C.F.R. 1.47(a).

(B) Proof of Unavailability to Locate and Sign

Applicants have enclosed the Declaration of Robert A. King, Esq. containing relevant facts from which Applicants reasonably conclude that: (1) Applicants have made *bona fide* attempts to locate and obtain the signature of the nonsigning inventor and (2) Applicants are

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Application Serial No. 10/534,055
Customer No. 21967

unable to locate Frank Nguyen to sign a Declaration verifying his status as co-inventor of the subject application.

Applicants previously included as Attachment A to their Petition Under 37 C.F.R. § 1.47(a) filed on November 23, 2005, a copy of the declaration of Sabrina Chambers detailing relevant facts in connection with the same unavailable inventor in a related pending application, U.S. Patent Application Serial No. 10/999,216.

(C) Last Known Addresses of Non-Signing Inventor

Applicants were last aware of the following address for Frank Nguyen: 1995 E. Coalton Road, #77-203, Superior, CO 80027.

(D) Facts Surrounding Unavailability to Sign

As detailed in the accompanying materials, Applicants and the entity to whom a duty of assignment is owed have made repeated, ongoing and diligent attempts to obtain the papers for completion of this application.

Frank Nguyen is no longer employed by Medtronic Sofamor Danek. Despite repeated attempts, the nonsigning inventor has not responded with a signed Declaration, as detailed in the accompanying Declaration of Robert A. King. This was through no fault of the signing inventors or the entity to which a duty of assignment is owed.

Notwithstanding the unavailability of the nonsigning inventor to sign a Declaration despite diligent attempts to obtain the same, Applicants respectfully request the Commissioner to

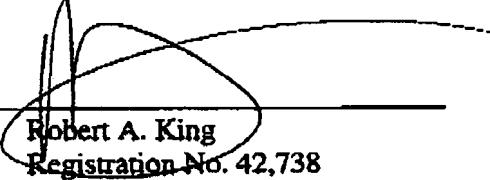
Attorney Docket No. 64118.000192
Application Serial No. 10/534,055
Customer No. 21967

grant this petition, and to accept U.S. Application No. 10/534,055 for the prosecution in due course to which Medtronic Sofamor Danek and Applicants George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson are entitled.

Applicants believe that no additional fees are due for filing this petition. In the event any additional fees are required, the Commissioner is authorized to charge all required fees, under 37 C.F.R. §1.17, or all required extension of time fees, to the undersigned's deposit account No. 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS

By:


Robert A. King
Registration No. 42,738

Hunton & Williams LLP
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006-1109
Telephone (202) 955-1950
Facsimile (202) 778-2201

Dated: June 6, 2006

AUG 18 2006 Attorney Docket No. 64118.000192
Customer No. 21967

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
TEITELBAUM et al.) Group Art Unit: Unassigned
Serial No.: 10/534,055) Examiner: Unassigned
Filed: May 6, 2005) Confirmation No. 2702
Title: TRANSPEDICULAR INTERVERTEBRAL)
DISK ACCESS METHODS AND DEVICES)

DECLARATION OF ROBERT A. KING, ESQ.

I, Robert A. King, state as follows:

1. I am a registered patent attorney (Reg. No. 42,738) employed by the law firm of Hunton & Williams LLP, legal representative of Medtronic Sofamor Danek for this matter. I submit this Declaration in support of the Renewed Petition under 37 C.F.R. 1.47(a) with respect to the above-referenced patent application.
2. A Notification of Missing Requirements under 35 U.S.C. 371 was mailed on July 25, 2005, from the U.S. Patent and Trademark Office with regard to the above-referenced patent application. In order to respond fully to the Notification of Missing Requirements, a signed oath or declaration from all the inventors was requested.
3. In a related patent application (U.S. Patent Application Serial No. 10/999,216) with the same inventive entity, Frank Nguyen was also a non-signing inventor. Sabrina Chambers of Medtronic Sofamor Danek executed a declaration in support of Mr. Nguyen's unavailability to sign. A copy of Ms. Chambers' declaration along with supporting Exhibits A-J were attached as Attachment A to Applicants' Petition Under 37 C.F.R. § 1.47(a), filed

Attorney Docket No. 64118.000192
Customer No. 21967

November 23, 2005. The Rule 47 petition for Frank Nguyen in U.S. Patent Application Serial No. 10/999,216 was subsequently granted by the U.S. Patent and Trademark Office on September 13, 2005.

4. On October 25, 2005, Mr. Yisun Song, also a registered patent attorney employed by Hunton & Williams LLP, sent a letter to Frank Nguyen, a copy of which was attached to Applicants' November 23, 2005 Petition as Attachment B. In that letter, Mr. Song requested Mr. Nguyen to sign the declaration and Power of Attorney. A certified mail receipt for this letter was also attached as Attachment C. In response to the letter dated October 25, 2005, and the efforts related to obtaining Mr. Nguyen's signature for U.S. Application No. 10/534,055, we have not received a signed declaration from Mr. Nguyen. However, Mr. Nguyen's signature on the signed certified mail postcard clearly established that Superior, Colorado, was his last known mailing address.

5. On May 9, 2006, the U.S. Patent and Trademark Office mailed a Decision on Petition Under 37 CFR 1.47(a). The Office noted that a renewed petition should be filed that clearly set out the last known address for Frank Nguyen and clearly indicated whether Mr. Nguyen could be located at his last known address.

6. On May 18, 2006, a letter was mailed to Frank Nguyen via U.S. Certified Mail at his last known address of 1995 E. Coalton Road, #77, in Superior, Colorado, requesting that Mr. Nguyen execute and return a copy of the Declaration. A copy of the letter is included as Attachment 1. Pursuant to Section 409.03(d) of the MPEP, the letter clearly set out: 1) that Mr. Nguyen was requested to sign and return the Declaration, 2) the purpose for his doing so, and 3) that his failure to return a signed declaration represented his refusal to do so. Further, a

Attorney Docket No. 64118.000192
Customer No. 21967

copy of the subject application to which the declaration pertains was included with the letter and Declaration.

7. The U.S. Postal Service subsequently returned the package mailed to Mr. Nguyen. The front of the package was stamped "NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD." A copy of the front of the package is attached as Attachment 2.

8. I further hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DECLARANT:



Robert A. King

Date: 6/6/2006

Aug-18-2006 12:52pm From-

T-450 P-016/046 F-924

Attorney Docket No. 64118.000192
Customer No. 21967

ATTACHMENT 1

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AUG 18 2006

**HUNTON &
WILLIAMS****HUNTON & WILLIAMS LLP
BANK OF AMERICA PLAZA
SUITE 4100
ATLANTA, GEORGIA 30308-2216**TEL 404 • 888 • 4000
FAX 404 • 888 • 4190ROBERT A. KING
DIRECT DIAL: 404-888-4196
EMAIL: rking@hunton.com

FILE NO. 64118.000192

May 18, 2006

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**Mr. Frank Nguyen
1995 E. Coalton Road, #77
Superior, CO 80027****Re: U.S. Patent Application No. 10/534,055
National Phase of PCT/US03/09285
Entitled: "Transpedicular Intervertebral Disk Access Methods and Devices"**

Dear Mr. Nguyen:

We are counsel for Medtronic Sofamor Danek. We write to ask that you execute the enclosed Declaration by signing and dating it in the spaces indicated, and that you return it to us in the envelope provided. Your signature on the Declaration verifies that you are a co-inventor in the above-referenced patent application, which was filed with the Patent Office on May 6, 2005. Further, your signature acknowledges that you are aware of your responsibility before the Patent Office to provide a copy of any information of which you become aware that may be considered relevant to the patentability of the invention. For your convenience, we enclose another copy of the application. We will need to file a copy of the executed Declaration with the Patent Office as soon as possible.

Your signature on the attached U.S. Postal Service return receipt postcard verifies that this letter has been forwarded to your correct mailing address. Therefore, your failure to sign, date, and return the Declaration indicates that you have no intention of doing so, and we will make no further attempts to contact you regarding this matter.

If you have any questions related to this matter, please feel free to contact us at your convenience.

Very truly yours,

Robert A. King

RAK/sim

Attorney Docket No.: 64118.000192

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES

the specification of which: is attached hereto.
 was filed on: May 6, 2005
 as United States Application No.: 10/534,055
 or PCT International Application No.: _____
 and was amended on: _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

Prior Foreign Application(s)

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Prior Provisional Application(s)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,942	8, November, 2002

Prior United States Application(s)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER
21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER
21967**

corresponding to the law firm of Hunton & Williams LLP; Intellectual Property Department; 1900 K Street, N.W.; Suite 1200; Washington, DC 20006-1109; telephone number (202) 955-1500; facsimile number (202) 778-2201.

HUNTON & WILLIAMS LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

**NAME OF SOLE OR FIRST
INVENTOR:**

A petition has been filed for this unsigned inventor

Signature _____	Date _____
Given Name (first and middle (if any)) George P.	Family Name or Surname TEITELBAUM
Citizenship: US	
Residence: Santa Monica, CA	
Mailing Address: 325 16 th Street, Santa Monica, CA 90402-2217	

NAME OF SECOND INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____	Date _____
Given Name (first and middle (if any)) Samuel M.	Family Name or Surname SHAOLIAN
Citizenship: US	
Residence: Newport Beach, CA	
Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660	

NAME OF THIRD INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____	Date _____
Given Name (first and middle (if any)) Thanh Van	Family Name or Surname NGUYEN
Citizenship: US	
Residence: Irvine, CA	
Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604	

NAME OF FOURTH INVENTOR:

A petition has been filed for this unsigned inventor

✓ Signature _____	Date _____ ✓
Given Name (first and middle (if any)) Frank	Family Name or Surname NGUYEN
Citizenship: US	
Residence: Superior, CO	
Mailing Address: 1995 E. Coalton Road, #77-203, Superior, CO 80027	

HUNTON & WILLIAMS LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1106

NAME OF FIFTH INVENTOR: A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) To V. Family Name or Surname PHAM
Citizenship: US
Residence: Trubuco Canyon, CA
Mailing Address: 28422 Pueblo Drive, Trubuco Canyon, CA 92679

NAME OF SIXTH INVENTOR: A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Vincent Family Name or Surname DIVINO, Jr.
Citizenship: US
Residence: Mission Viejo, CA
Mailing Address: 24436 Musla, Mission Viejo, CA 92692

NAME OF SEVENTH INVENTOR: A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Michael R. Family Name or Surname HENSON
Citizenship: US
Residence: Coto de Casa, CA
Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

HUNTON & WILLIAMS LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington DC 20006-1108

Aug-18-2006 12:53pm From-

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Attorney Docket No. 64118.000192
Customer No. 21967

ATTACHMENT 2

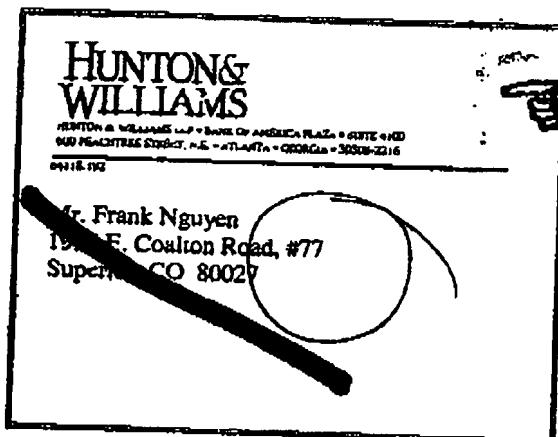
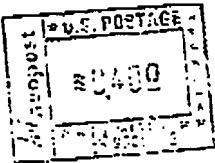
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Aug-18-2006 12:54pm From-

T-450 P.023/046 F-924



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~~NOT DELIVERABLE AS ADDRESSED,
RETURN TO SENDER~~

TNS

R/S

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Andto Addressed to:

**Mr. Frank Nguyen
1995 E. Coalton Road, #77
Superior, CO 80027**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X Agent Addressee Yes NoD. Is delivery address different from item 1?
If YES, enter delivery address below:

3. Service Type

- | | |
|--|---|
| <input checked="" type="checkbox"/> Certified Mail | <input type="checkbox"/> Express Mail |
| <input type="checkbox"/> Registered | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Insured Mail | <input type="checkbox"/> C.O.D. |

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number (Copy from stamp, if any)

7005 1161 0001 1620 3595

PS Form 3811, July 1989

102545 03-04-0002

Attorney Docket No.: 64118.000192

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed in the patent which is sought on the invention entitled:

TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES

the specification of which: is attached hereto.

was filed on: May 6, 2005

as United States Application No.: 10/534,055

or PCT International Application No.: _____

and was amended on: _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

Prior Foreign Application(s)

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed
				Yes <input type="checkbox"/> No <input type="checkbox"/>

Prior Provisional Application(s)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,542	5, November, 2002

Prior United States Application(s)

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Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER
21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER
21967**

corresponding to the law firm of Hunton & Williams LLP; Intellectual Property Department; 1900 K Street, N.W.; Suite 1200; Washington, DC 20006-1109; telephone number (202) 955-1500; facsimile number (202) 778-2201.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment or both under 35 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

NAME OF SOLE OR FIRST INVENTOR: A petition has been filed for this unsigned inventor

Signature Date 10/17/05Given Name
(first and middle (if any)) George P.Family Name
or Surname

TEITELBAUM

Citizenship: US

Residence: Santa Monica, CA

Mailing Address: 325 16th Street, Santa Monica, CA 90402-2217

NAME OF SECOND INVENTOR: A petition has been filed for this unsigned inventor

Signature _____

Date _____

Given Name
(first and middle (if any)) Samuel M.Family Name
or Surname

SHAOlian

Citizenship: US

Residence: Newport Beach, CA

Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR: A petition has been filed for this unsigned inventor

Signature _____

Date _____

Given Name
(first and middle (if any)) Thanh VanFamily Name
or Surname

NGUYEN

Citizenship: US

Residence: Irvine, CA

Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

HUNTON & WILLIAMS LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200

NAME OF FIFTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____

Date _____

Given Name
(first and middle (if any)) To V.Family Name
or Surname

PHAM

Citizenship: US

Residence: Trabuco Canyon, CA

Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

NAME OF SIXTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____

Date _____

Given Name
(first and middle (if any)) VincenFamily Name
or Surname

DIVINO, Jr.

Citizenship: US

Residence: Mission Viejo, CA

Mailing Address: 24436 Muela, Mission Viejo, CA 92682

NAME OF SEVENTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____

Date _____

Given Name
(first and middle (if any)) Michael R.Family Name
or Surname

HENSON

Citizenship: US

Residence: Coto de Casa, CA

Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

MUNTON & WILLIAMS LLP
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Page 4

Attorney Docket No.: 64118.000192

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or, an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

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the specification of which: is attached hereto.

was filed on: May 6, 2005

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Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed
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60/424,542	8, November, 2002,

Prior United States Application(s)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER
21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER
21967**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

A petition has been filed for this unsigned inventor

**NAME OF SOLE OR FIRST
INVENTOR:**

Signature		Date	
Given Name (first and middle (if any))	George F.	Family Name or Surname	TEITELBAUM.
Citizenship:	US		
Residence:	Santa Monica, CA		
Mailing Address:	325 16 th Street, Santa Monica, CA 90402-2217		

NAME OF SECOND INVENTOR: A petition has been filed for this unsigned inventor

Signature		Date	10-17-05
Given Name (first and middle (if any))	Samuel M.	Family Name or Surname	SHAOlian
Citizenship:	US		
Residence:	Newport Beach, CA		
Mailing Address:	2315 Arbutus Street, Newport Beach, CA 92660		

NAME OF THIRD INVENTOR: A petition has been filed for this unsigned inventor

Signature		Date	10-19-05
Given Name (first and middle (if any))	Thanh Van	Family Name or Surname	NGUYEN
Citizenship:	US		
Residence:	Irvine, CA		
Mailing Address:	4752 Roxbury Drive, Irvine, CA 92604		

NAME OF FOURTH INVENTOR: A petition has been filed for this unsigned inventor

Signature		Date	
Given Name (first and middle (if any))	Frank	Family Name or Surname	NGUYEN
Citizenship:	US		
Residence:	Superior, CO		
Mailing Address:	1995 E. Coalton Road, #77-203, Superior, CO 80027		

HUNTON & WILLIAMS LLP
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1990 K Street, N.W.
Suite 1200
Washington, DC 20006-1109
(202) 566-1600 (telephone); (202) 776-2201 (facsimile)

Page 3

NAME OF FIFTH INVENTOR: A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name To V. Family Name or Surname PHAM
(first and middle (if any))
Citizenship: US
Residence: Trabuco Canyon, CA
Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

NAME OF SIXTH INVENTOR: A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name Vincent Family Name or Surname DIVINO, JR.
(first and middle (if any))
Citizenship: US
Residence: Mission Viejo, CA
Mailing Address: 24436 Mueta, Mission Viejo, CA 92692

NAME OF SEVENTH INVENTOR: A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name Michael R. Family Name or Surname HENSON
(first and middle (if any))
Citizenship: US
Residence: Coto de Casa, CA
Mailing Address: 2 Via Presa, Coto de Casa, CA 92679

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Page 4

Attorney Docket No.: 64118.000192

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TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES

the specification of which: is attached hereto.

was filed on: May 6, 2005

as United States Application No.: 10/534,055

or PCT International Application No.: _____

and was amended on: _____ (if applicable).

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				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed
				Yes <input type="checkbox"/> No <input type="checkbox"/>

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60/424,542	8. November. 2002

Prior United States Application(s)

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**CUSTOMER NUMBER
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

NAME OF SOLE OR FIRST INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name George F. Family Name or Surname TEITELBAUM.
 (first and middle (if any))
 Citizenship: US
 Residence: Santa Monica, CA
 Mailing Address: 525 16th Street, Santa Monica, CA 90402-2217

NAME OF SECOND INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name Samuel M. Family Name or Surname SHAOLIAN.
 (first and middle (if any))
 Citizenship: US
 Residence: Newport Beach, CA
 Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name Thanh Van Family Name or Surname NGUYEN.
 (first and middle (if any))
 Citizenship: US
 Residence: Irvine, CA
 Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

NAME OF FOURTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name Frank Family Name or Surname NGUYEN.
 (first and middle (if any))
 Citizenship: US
 Residence: Superior, CO
 Mailing Address: 1895 E. Coalton Road, #77-203, Superior, CO 80027

MURTON & WILLIAMS LLP
 Intellectual Property Department
 1300 K Street, N.W.
 Suite 1200
 Washington, DC 20005-1908
 (202) 255-1900 (telephone); (202) 778-2201 (facsimile)

Page 3

NAME OF FIFTH INVENTOR:

 A petition has been filed for this unsigned inventorSignature Wangham

Given Name (first and middle (if any)) To V.

Date

10-18-05

Family Name or Surname

PHAM

Citizenship: US

Residence: Trabuco Canyon, CA

Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

NAME OF SIXTH INVENTOR:

 A petition has been filed for this unsigned inventor

Signature

Given Name (first and middle (if any)) Vincent

Date

Family Name or Surname

DIVINO, JR.

Citizenship: US

Residence: Mission Viejo, CA

Mailing Address: 24436 Muela, Mission Viejo, CA 92682

NAME OF SEVENTH INVENTOR:

 A petition has been filed for this unsigned inventor

Signature

Given Name (first and middle (if any)) Michael R.

Date

Family Name or Surname

HENSON

Citizenship: US

Residence: Coto de Casa, CA

Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

HUNTON & WILLIAMS LLP
 Intellectual Property Department
 1900 K Street, N.W.
 Suite 1500
 Washington, DC 20006-1106
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Page 4

Attorney Docket No.: 64118.000192

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				Yes <input type="checkbox"/> No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed
				Yes <input type="checkbox"/> No <input type="checkbox"/>

Prior Provisional Application(s)

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60/424,942	8. November. 2002

Prior United States Application(s)

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**NAME OF SOLE OR FIRST
INVENTOR:**

A petition has been filed for this unsigned inventor

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 Given Name George F. Family Name or Surname TEITELBAUM
 (first and middle (if any))
 Citizenship: US
 Residence: Santa Monica, CA
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A petition has been filed for this unsigned inventor

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 Given Name Samuel M. Family Name or Surname SHAOLIAN
 (first and middle (if any))
 Citizenship: US
 Residence: Newport Beach, CA
 Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name Thank Van Family Name or Surname NGUYEN
 (first and middle (if any))
 Citizenship: US
 Residence: Irvine, CA
 Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

NAME OF FOURTH INVENTOR:

A petition has been filed for this unsigned inventor

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NAME OF FIFTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name _____ Family Name _____
 (first and middle (if any)) To V. or Surname PHAM
 Citizenship: US
 Residence: Trabuco Canyon, CA
 Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

NAME OF SIXTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name _____ Family Name _____
 (first and middle (if any)) Vincent or Surname DIVINO, Jr.
 Citizenship: US
 Residence: Mission Viejo, CA
 Mailing Address: 24438 Muella, Mission Viejo, CA 92662

NAME OF SEVENTH INVENTOR:

A petition has been filed for this unsigned inventor

Signature _____ Date _____
 Given Name _____ Family Name _____
 (first and middle (if any)) Michael R. or Surname HENSON
 Citizenship: US
 Residence: Coto de Casa, CA
 Mailing Address: 2 Via Presea, Coto de Casa, CA 92679



01 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

PAD-TMM-RAK

Commissioner for Patents
 United States Patent and Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450
www.uspto.gov

21967

HUNTON & WILLIAMS LLP
 Intellectual Property Department
 1900 K Street, N.W., Suite 1200
 Washington, DC 20006-1109

64118-192

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AUG 09 2006

Hunton & Williams LLP

8/9/06
8-9-06

DOCKETED

7047

In re Application of
 TEITELBAUM et al
 U.S. Application No.: 10/534,055
 PCT No.: PCT/US03/09285
 Int. Filing Date: 25 March 2003
 Priority Date: None
 Docket No.: 64118.000192
 For: TRANSPEDICULAR
 INTERVERTEBRAL DISK ACCESS
 METHODS AND DEVICES

DECISION ON
 RENEWED PETITION
 UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition under 37 CFR §1.47(a)" filed 06 June 2006.

BACKGROUND

On 09 May 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. There was conflicting information regarding whether the nonsigning inventor could be located. Moreover, the declaration provided was not in compliance with 37 CFR 1.497. Applicants were given two months to respond.

On 06 June 2006, applicants submitted via facsimile a renewed petition which was accompanied by, *inter alia*, a declaration of Robert A. King ("Decl."); a copy of a letter dated 18 May 2006 with copies of the postal receipts; and a declaration signed by six of the seven named inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor. Petitioners satisfied item (1) with the initial petition and items (3) and (4) with the renewed petition.

Petitioners declare that the last known address of Mr. Frank Nguyen is:

10/534,055**Page 2**

1995 E. Coalton Road
Superior, CO 80027

Regarding item (4), the 37 CFR 1.47(a) applicant submitted complete declarations signed by six of the seven joint inventors on behalf of the nonsigning inventor. All of the inventor's names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of 37 CFR 1.497(a) and (b) and section 409.03(a) of the MPEP.

However, petitioners have not yet satisfied item (2) of 37 CFR 1.47(a).

Petitioners submitted evidence filed in an earlier U.S. application (No. 10/999,216) showing that a diligent effort was made to locate Mr. Nguyen. This search was conducted by Sabrina Chambers prior to 15 August 2005.¹

In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration of Robert A. King who states that the certified mail postcard signed as received by Mr. Nguyen on 01 November 2005 clearly established that Superior, Colorado, was his last known mailing address. Decl. at ¶ 4. Petitioners mailed a certified letter on 18 May 2006 to this address along with a copy of the application and a declaration requesting that Mr. Nguyen respond. The letter was returned as undeliverable. Petitioners submitted no other evidence on this matter.

First, the showing that a diligent effort was made to locate Mr. Nguyen submitted in U.S. application No. 10/999,216 on 16 August 2005 is no longer relevant as there is credible evidence to suggest that Mr. Nguyen was living in Louisville, Colorado on 01 November 2005. Since the letter sent to the last known address of Mr. Nguyen on 18 May 2006 was returned as undeliverable, it is not clear whether Mr. Nguyen is aware of the subject application. Petitioners must attempt to determine where Mr. Nguyen now resides.

If petitioners conclude that Mr. Nguyen still lives at the Louisville, Colorado address but refuses to accept delivery of mail, this conduct would constitute a refusal to cooperate. If petitioners are unable to determine where Mr. Nguyen lives, a statement of facts should be submitted that fully describes the steps taken to locate the whereabouts of the nonsigning inventor. Copies of documentary evidence such as internet and telephone searches that support a finding that the nonsigning inventor could not be found or reached should be made part of the

¹ The declaration of Ms. Chambers filed with the petition in U.S. Application 10/999,216 was dated 15 August 2005.

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3 3

statement of facts. See MPEP § 409.03(d).

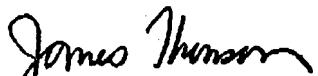
For the reasons noted above, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

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PAD-TMM-RAK

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO
10/534,055	George P Teitelbaum	64118.000192

INTERNATIONAL APPLICATION NO	
PCT/US03/09285	

I.A. FILING DATE	PRIORITY DATE
	03/25/2003

21967
HUNTON & WILLIAMS LLP
 INTELLECTUAL PROPERTY DEPARTMENT
 1900 K STREET, N.W.
 SUITE 1200
 WASHINGTON, DC 20006-1109

64118-192
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Date Mailed: 08/07/2006

NOTIFICATION OF ABANDONMENT

CONFIRMATION NO. 2702
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ABANDON???

Therefore, the above identified application fail
 1.495, and is ABANDONED AS TO THE UNIT

d 37 CFR

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06-06-2006	Petition Entered
05-10-2006	Petition Decision - Dismissed
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Attorney Docket No. 64118.000192
Application Serial No. 10/534,055
Customer No. 21967

C.F.R. §1.17, or all required extension of time fees, to the undersigned's deposit account No. 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS

By: 

Robert A. King
Registration No. 42,738

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Dated: August 18, 2006

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	DIRECT DIAL:	404-888-4136
MESSAGE	In re Application Of: TEITELBAUM et al.	Examiner: Unassigned
	Application No.: 10/534,055	Art Unit: Unassigned
	Filed: May 6, 2005	Docket No.: 64118.000192
	Title: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES	

In accordance with 37 CFR 1.8, I hereby certify that the attached

1. Petition to Revive Unintentional Abandonment (2 pages)
Copies of:
2. Decision on Petition Under 37 C.F.R. 1.47(a) (3 pages);
3. Receipt of Petition filed via Facsimile and copies of Facsimiled (3 pages);
4. Renewed Petition Under 37 C.F.R. § 1.47(a) dated 6/9/06 and

Central fax received 1 page
(missing 45 pages)